

Appln. No. 10/612,445
Filing Date 07/02/2003
Inventor Magnusson

REMARKS/ARGUMENTS

Claims 15-16, 18-19, 21-24 and 27 have been rejected under 35 USC 102(b) as being anticipated by Furuya et al. Claim 25 is rejected under 35 USC 103(a) as being unpatentable over Furuya et al in view of Kato et al. Reconsideration is requested.

Furuya et al relates to a container for foodstuffs which *requires* an aluminum foil layer (col. 2, lines 50-57). Each side of the aluminum foil *must* be coated with "a synthetic resin of the same type as the thermoplastic resin consisting essentially of high density polyethylene resin," (col. 4, lines 5-12). The reference defines "consisting essentially" as including from 10 to 25% *low* density polyethylene. See, col.2, lines 58 et.seq., and particularly col.3, lines 17-26. Low density polyethylene *must* be included, otherwise workability is impaired. See, col. 3, lines 8-26.

In total contrast, the present invention as claimed does not recite low density polyethylene, and indeed low density polyethylene is specifically enumerated in applicant's specification as being an unsuitable polymer. See, page 7, lines 14-19 of the specification. Accordingly Furuya et al cannot be applied as an anticipatory reference since it fails to teach each and every element of the claimed invention.

Furuya et al also fails to establish a *prima facie* case of obviousness, since the requirement of low density polyethylene is essential to the alleged functionality fo the prior art teaching. Elimination of the low density polyethylene component of Furuya et al can therefore only be made in hindsight, and only with reference to applicant's disclosure.

The addition of Kato et al fails to correct any of the defects noted above with respect to the primary reference of Furuya et al. Moreover, Kato et al relates to sterilization using hot hydrogen peroxide (Technical Field, col. 1, lines 9-15), not retorting. There is no indication in either reference that glycol/cyclohexanedimethanol could be used in a retorting process as claimed.

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In view of the above, a Notice of Allowance is requested.

Respectfully submitted,



David J. Serbin

Reg. No. 30,589

WRB-IP LLP
1217 King St.
Alexandria, VA 22314
Tel. (703) 299-0035
Fax (703) 299-0036

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